

California Regional Water Quality Control Board
North Coast Region

CEASE AND DESIST ORDER NO. R1-2003-0049

REQUIRING THE CITY OF FERNDALE
TO CEASE AND DESIST FROM DISCHARGING AND THREATENING
TO DISCHARGE WASTE IN VIOLATION OF
WASTE DISCHARGE REQUIREMENTS ORDER NO. R1-2000-92
NPDES No. CA0022721
WDID No. 1B83136OHUM

Humboldt County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board) finds that:

1. The City of Ferndale (hereinafter Permittee) owns and operates a municipal wastewater treatment facility (WWTF) located near Ferndale, California adjacent to Francis Creek near its confluence with the Salt River, a tributary of the Eel River. The WWTF provides secondary treatment and consists of a gravity collection system, seven-acre aerated oxidation pond, settling basin, chlorine contact basin, and dechlorination system. Design flow is 1.0 million gallons per day (mgd); average dry weather flow is approximately 0.32 mgd; and peak weather flows reach approximately 3.7 mgd.
2. The WWTF is regulated by Waste Discharge Requirements Order No. R1-2000-92, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0022721, WDID No. 1B83136OHUM, adopted by the Regional Water Board on November 29, 2000.
3. Pursuant to provisions of the Water Quality Control Plan for the North Coast Basin (Basin Plan), **A. DISCHARGE PROHIBITION** 6 of Order No. R1-2000-92 restricts the discharge of effluent to the Eel River and its tributaries from October 1 to May 14 each year to no greater than one percent of the receiving water flow. Effluent discharge to the Eel River and its tributaries is prohibited from May 15 through September 30.
4. Francis Creek is a tributary of Salt River, and Salt River is a tributary of the Eel River. Historically, Francis Creek and the Salt River had sufficient flow to meet the Basin Plan's dilution requirements; however, flooding and sedimentation have contributed to reduced receiving water flows. Wastewater flow volumes from the City's WWTF typically exceed one percent of the receiving water flow during the winter months, which is a violation of Order No. R1-2000-92.
5. The Permittee has an agreement with a neighboring property owner to irrigate seven parcels of pastureland with the treated wastewater effluent during summer months. The recycling of treated wastewater effluent on pastureland during summer months is in compliance with Order No. R1-2000-92.

6. Terms in Order No. R1-2000-92 that are being violated or threaten to be violated are:

A. DISCHARGE PROHIBITIONS

2. Creation of a pollution, contamination, or nuisance, as defined by Section 13050 of the California Water Code (CWC), is prohibited. [Health and Safety Code, Section 5411]
 6. During the period of October 1 through May 14, discharges of wastewater shall not exceed one percent of the combined flows of Francis Creek and the Salt River. For purposes of this Permit, the combined flow shall be that flow of Francis Creek and Salt River measured at the confluence.
7. The Permittee conducted a wastewater effluent discharge study in 1999 to identify alternatives to discharge of treated wastewater to Francis Creek between October 1 and May 14. Thirteen alternatives were identified, and the Permittee currently is focusing on an alternative to move the effluent outfall to a new location.
8. Over the past few years, the Permittee has concentrated on improving the efficiency of the WWTF and has gathered effluent and receiving water data to evaluate water quality. Several major improvement projects were completed at the WWTF between 1994 and 2001. Improvements included adding an automated chlorination system, lining the chlorine contact chamber (chamber) with concrete, extending the baffles in the chamber, and providing easier access for cleaning the chamber. The improvements have significantly reduced the number of coliform violations and have eliminated the possibility of backflows from Francis Creek entering the chamber.
9. On November 13, 2002, the Permittee submitted a report to the Regional Water Board expressing its desire to pursue an exception to the Basin Plan's requirement that treated wastewater effluent discharges to the Eel River not exceed one percent of the receiving water's flow. The Permittee reviewed WWTF reliability, beneficial uses of the receiving waters, water reclamation and conservation, and effluent and receiving water monitoring data. The report concludes that a dilution allowance of 3:1 would be needed to comply with dilution requirements of Order No. R1-2000-92.
10. The Permittee also is considering constructing a 1.5-mile discharge pipeline along Fulmor Road to the Eel River. Eel River flow at this point would meet the Basin Plan effluent dilution requirement by providing at least a 300:1 dilution throughout the discharge period. The Permittee is monitoring the potential discharge point to determine the limits of the Eel River estuary.
11. Pursuant to Section 15321, Title 14, California Code of Regulations, adoption of a cease and desist order is an enforcement action for the protection of the environment and is exempt from the requirements of the California Environmental Quality Act.
12. On May 15, 2003, after due notice to the Permittee and all other affected persons, the Regional Water Board conducted a public hearing and received evidence regarding this cease and desist order.

IT IS HEREBY ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTIONS 13267, 13243, 13300 AND 13301 THAT:

1. The Permittee shall cease and desist from discharging and threatening to discharge waste in violation of the terms of Order No. R1-2000-92 (NPDES Permit No. CA0022721) described in Finding No. 5 above by implementing the following time schedule:
 - Task A By May 31, 2004, submit a detailed report outlining an alternatives analysis, the proposed method for long-term compliance with Order No. R1-2000-92, and a time schedule for completing specific project milestones. Milestones for gaining compliance with the California Environmental Quality Act and obtaining necessary permits shall be included in the time schedule.
 - Task B By January 1 and July 1 of each year, until compliance is achieved, submit reports of progress on actions taken to achieve compliance with Order No. R1-2000-92. The progress reports shall include the status of project milestones, evaluate the effectiveness of the implemented measures, and assess whether additional measures are necessary to meet the time schedule.
 - Task C By February 1, 2005, achieve full compliance with Order No. R1-2000-92.
2. In the interim period until the Permittee achieves full compliance with Order No. R1-2000-92, the Permittee shall operate and maintain, as efficiently as possible, all facilities and systems necessary to comply with **A. DISCHARGE PROHIBITIONS** 2 and 6 to the maximum extent practicable.
3. If, in the opinion of the Executive Officer, the Permittee fails to comply with the provisions of this Order, the Executive Officer may apply to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability.

Certification

I, Susan A. Warner, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on May 15, 2003.

Susan A. Warner
Executive Officer